

SEALED

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.) 2:12-CR-0066-APG-(CWH)
)
EARL GROSS,)
)
Defendant.)

FINAL ORDER OF FORFEITURE

On June 11, 2013, defendant EARL GROSS pled guilty to Count One of a Three-Count Criminal Indictment charging him in Count One with Bank Fraud in violation of Title 18, United States Code, Section 1344. Criminal Indictment, ECF No. 1; Change of Plea Minutes, ECF No. 66; Plea Agreement, ECF No. 67.

On June 19, 2013, the United States District Court for the District of Nevada entered an Order of Forfeiture as to EARL GROSS, issuing a criminal forfeiture money judgment of \$8,440,439 in United States Currency pursuant to Fed. R. Crim. P. 32.2(b)(1) and (2); Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c); Title 18, United States Code, Section 982(a)(2)(A); and Title 21, United States Code, Section 853(p) based upon the plea of guilty by defendant EARL GROSS to the criminal offense, forfeiting the property set forth in the Plea Agreement and the Forfeiture Allegation of the Criminal Indictment and shown by the United States to have the requisite nexus to the offense to which defendant EARL GROSS pled guilty. Criminal

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1 Indictment, ECF No. 1; Change of Plea Minutes, ECF No. 66; Plea Agreement, ECF No. 67; Order of
2 Forfeiture, ECF No. 69.

3 On December 11, 2013, the United States District Court for the District of Nevada sentenced
4 EARL GROSS. Amended Sentencing Minutes, ECF No. 87. This Court entered the sentencing Order
5 of Forfeiture with a criminal forfeiture money judgment of \$8,440,439 in United States Currency
6 pursuant to Fed. R. Crim. P. 32.2(b)(4)(A) and (B); Title 18, United States Code, Section 981(a)(1)(C)
7 and Title 28, United States Code, Section 2461(c); Title 18, United States Code, Section 982(a)(2)(A);
8 and Title 21, United States Code, Section 853(p). Sentencing Order of Forfeiture, ECF No. 88.

9 On December 18, 2013, the United States District Court for the District of Nevada entered the
10 Judgment in a Criminal Case on EARL GROSS with the Sentencing Order of Forfeiture (ECF No. 88)
11 attached. Judgment in a Criminal Case, ECF No. 95.

12 On December 16, 2013, the United States of America filed a Sealed Ex Parte Motion to
13 Substitute and to Forfeit Property of Earl Gross along with the proposed Substitution and Forfeiture
14 Order (ECF No. 91).

15 On December 16, 2013, the United States District Court for the District of Nevada entered the
16 Substitution and Forfeiture Order (ECF No. 94) authorizing the substitution and forfeiture of the
17 following property pursuant to Title 21, United States Code, Section 853(p):

- 18 1. Any and all assets contained in any and all accounts held at Bank of Nevada in the name of
19 Earl Loren Gross, social security number [REDACTED]-4941, to include account number
20 [REDACTED] 6304, located at Bank of Nevada, 2700 West Sahara Avenue, Las Vegas, Nevada
21 89102; and
- 22 2. Any and all assets contained in any and all accounts held at New York Life in the name of
23 Earl Gross, social security number [REDACTED]-4941, to include New York Life annuity, located
24 at New York Life, 51 Madison Avenue, New York, New York 10010.

25 On December 27, 2013, \$6,261.51 in United States Currency was seized from Bank of Nevada
26 by the Federal Bureau of Investigation ("FBI") and was substituted and forfeited to the United States of

1 America pursuant to Title 21, United States Code, Section 853(p). Notice of Filing Service of Process,
2 ECF No. 107, p. 25-47.

3 On January 10, 2014, \$56,800.53 in United States Currency was seized from New York Life
4 by the FBI and was substituted and forfeited to the United States of America pursuant to Title 21,
5 United States Code, Section 853(p). Notice of Filing Service of Process, ECF No. 107, p. 2-24.

6 On January 29, 2014, the United States of America filed an Amended Motion to Replace the
7 Sealed Ex Parte Motion to Substitute and to Forfeit Property of Earl Gross and Substitution and
8 Forfeiture Order with a Redacted Motion and Order (ECF No. 105) so service of process could be
9 completed. On January 30, 2014, the United States District Court for the District of Nevada entered
10 the order granting the United States' motion (ECF No. 106).

11 On May 20, 2014, John G. Stumpf, Chairman, President and CEO Wells Fargo & Company,
12 Wells Fargo Bank N.A., 625 Marquette Ave., 16th Floor, MAC-N9311-161, Minneapolis, Minnesota
13 55402, was served by regular and certified return receipt mail with the United States of America's
14 Redacted Sealed Ex Parte Motion to Substitute and to Forfeit Property of Earl Gross, the Redacted
15 Substitution and Forfeiture Order, and the Redacted Notice. Notice of Filing Supplemental Service of
16 Process for Mailing, ECF No. 110, p. 2-6, 11-35.

17 On May 20, 2014, CSC Services of Nevada, Inc., the registered agent for Wells Fargo Bank
18 N.A., 2215-B Renaissance Dr., Las Vegas, Nevada 89119, was served by regular and certified return
19 receipt mail with the United States of America's Redacted Sealed Ex Parte Motion to Substitute and to
20 Forfeit Property of Earl Gross, the Redacted Substitution and Forfeiture Order, and the Redacted
21 Notice. Notice of Filing Supplemental Service of Process for Mailing, ECF No. 110, p. 2, 7-35.

22 On May 22, 2014, Earl Gross was personally served with the United States of America's
23 Redacted Sealed Ex Parte Motion to Substitute and to Forfeit Property of Earl Gross, the Redacted
24 Substitution and Forfeiture Order, and the Redacted Notice. Notice of Filing Supplemental Service of
25 Process - Substitution and Forfeiture Order, ECF No. 112, p. 6-31.

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1 On June 13, 2014, the FBI attempted to serve Lucinia Baeza Rodriguez Gross at her last
2 known address via Federal Express with the United States of America's Redacted Sealed Ex Parte
3 Motion to Substitute and to Forfeit Property of Earl Gross, the Redacted Substitution and Forfeiture
4 Order, and the Redacted Notice. The notice was returned undeliverable on July 7, 2014. Queries of
5 domestic databases including Lexis Nexis Accurint for Law Enforcement and the Nevada Department
6 of Motor Vehicles did not provide any new information for a current address of Lucinia Baeza
7 Rodriguez Gross. As Lucinia Baeza Rodriguez Gross appears to be living in Spain, there are no other
8 reasonable investigative techniques that can be utilized to determine her current address in order to
9 serve her with notice. *See* Declaration of Special Agent Neal Umphress, attached to the Notice of
10 Filing Supplemental Service of Process - Substitution and Forfeiture Order, ECF No. 112, p. 2-5, 7-31.

11 This Court finds the United States of America published the notice of forfeiture in accordance
12 with the law via the official government internet forfeiture site, www.forfeiture.gov, consecutively
13 from May 20, 2014, through June 18, 2014, notifying all potential third parties of their right to petition
14 the Court. Notice of Filing Proof of Publication, ECF No. 111.

15 This Court finds no petition was filed herein by or on behalf of any person or entity and the
16 time for filing such petitions and claims has expired.

17 This Court finds no petitions are pending with regard to the assets named herein and the time
18 for presenting such petitions has expired.

19 THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that all right,
20 title, and interest in the property hereinafter described is condemned, forfeited, and vested in the
21 United States of America pursuant to Fed. R. Crim. P. 32.2(b)(4)(A) and (B); Fed. R. Crim. P.
22 32.2(c)(2); Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code,
23 Section 2461(c); Title 18, United States Code, Section 982(a)(2)(A); and Title 21, United States Code,
24 Section 853(n)(7) and (p) and shall be disposed of according to law:

- 25 1. \$6,261.61 in United States Currency; and
- 26 2. \$56,800.53 in United States Currency

1 which will be applied towards the criminal forfeiture money judgment of \$8,440,439 in United States
2 Currency.

3 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that any and all forfeited funds,
4 including but not limited to, currency, currency equivalents, certificates of deposit, as well as any
5 income derived as a result of the United States of America's management of any property forfeited
6 herein, and the proceeds from the sale of any forfeited property shall be disposed of according to law.

7 The Clerk is hereby directed to send copies of this Order to all counsel of record and three
8 certified copies to the United States Attorney's Office.

9 DATED this 2nd day of October, 2014.

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UNITED STATES DISTRICT JUDGE
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